

F2 29. (Amended) The trocar sleeve defined in claim 25 wherein each of the [spring elements] spring-biased joints acts upon a respective individual pivotable part.

REMARKS

By the foregoing Amendment, claims 26 and 29 are amended. Entry of the Amendment, and favorable consideration thereof is earnestly requested in light of the following remarks.

The Examiner has rejected Claims 26, 27 and 29 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 26 and 29 have been amended to require spring-biased joints, instead of spring elements. Applicant respectfully submits that Claim 25, as amended in the Amendment filed on August 7, 2000, now supports Claims 26, 27 and 29.

The Examiner has rejected Claim 24 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,620,456 to Sauer et al.

The present invention is directed to a trocar sleeve for endoscopic applications which includes an elongate part having at least one passage for insertion of an instru-

ment, such as an endoscope, a scissors and the like. Pivotal parts are formed at a distal section of the elongate part, each pivotal part having a blade end portion which permits the cutting of the body wall without requiring an additional trocar mandrel. To this end, Claim 24 specifically requires that the pivotal parts converging toward one another in a piercing position, wherein the blade end portions of the pivotal parts form a pointed tip. This limitation, at least, is not disclosed, taught or suggested by Sauer et al.

Sauer et al. discloses an obturator assembly for penetrating body tissue, which includes a handle assembly having a finger-actuated trigger member, a sleeve member connected to and extending from the handle assembly, an obturator shaft at least partially positioned within the sleeve member and engageable with the finger-actuated trigger member of the handle assembly and a cutting mechanism supported by the distal end portion of the obturator shaft. The cutting mechanism is deployable for cutting action upon movement of the trigger member, and is formed of two flat cutting blades which are mounted in an overlapping manner. (Column 6, lines 23-34) Such is specifically required because Sauer et al. expressly teaches that it is desirable to form a substantially linear incision. (Column 8, lines 48-56).

The claimed invention is completely different. Instead of flat cutting blades arranged in an overlapping manner, what is claimed is pivotable parts having blade end portions which converge toward each other to form a pointed tip. The reason to have such an arrangement is to allow for the skin to be punctured (i.e., simultaneously cut and pierced) without requiring a mandrel, and then allowing for the pivotable parts to be pivoted outward, thereby holding the trocar in place. (page 3, lines 8-25).

Sauer et al. does not teach or suggest in any way that it is desirable to puncture the skin. Instead Sauer et al. specifically teaches that it is desirable to form a substantially linear incision. The structure claimed in Claim 24 cannot form a substantially linear incision as taught by Sauer et al., and therefore, there is no motivation whatsoever in Sauer et al. which would teach one skilled in the art to arrive at such an invention. More specifically, there is absolutely no motivation in Sauer et al. to design a trocar which includes pivotable parts having blade end portions which converge toward each other to form a pointed tip, as such a design is incapable of form a substantially linear incision, which is taught by Sauer et al. as being the desirable mechanism for entering the body. If anything, Sauer et al.'s teaching that a substantially linear incision is desirable teaches away from the claimed invention which punctures the body.

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For the foregoing reasons, Applicant respectfully submits that all pending claims, namely, Claims 24-31 are patentable over the references of record, and earnestly solicits allowance of the same.

Respectfully submitted,

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